

AMENDED IN SENATE SEPTEMBER 2, 2003

AMENDED IN ASSEMBLY APRIL 30, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1087

Introduced by Assembly Member Frommer

February 20, 2003

An act to amend Section 1246 of the Business and Professions Code, relating to venipuncture, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1087, as amended, Frommer. Venipuncture.

Existing law provides that an unlicensed person employed by a licensed clinical laboratory may perform venipuncture or skin puncture for specified purposes upon specific authorization from a licensed physician and surgeon if he or she meets specified requirements, including any required certification.

This bill would provide, in addition, that a person who has obtained certification as a “certified phlebotomy technician” may perform venipuncture or skin puncture to obtain a specimen for nondiagnostic tests with general supervision, as defined.

This bill would also incorporate additional changes in Section 1246 of the Business and Professions Code proposed by AB 371 that would become operative only if AB 371 and this bill are both enacted and become effective on or before January 1, 2004, and this bill is enacted last.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ ^{2/3}. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1246 of the Business and Professions
2 Code is amended to read:

3 1246. (a) Except as provided in ~~subdivision (b)~~ *subdivisions*
4 *(b) and (c)*, and in Section 23158 of the Vehicle Code, an
5 unlicensed person employed by a licensed clinical laboratory may
6 perform venipuncture or skin puncture for the purpose of
7 withdrawing blood or for clinical laboratory test purposes upon
8 specific authorization from a licensed physician and surgeon
9 provided that he or she meets both of the following requirements:

10 (1) He or she works under the supervision of a person licensed
11 under this chapter or of a licensed physician ~~or~~ *and* surgeon or of
12 a licensed registered nurse. A person licensed under this chapter,
13 a licensed physician or surgeon, or a registered nurse shall be
14 physically available to be summoned to the scene of the
15 venipuncture within five minutes during the performance of those
16 procedures.

17 (2) He or she has been trained by a licensed physician and
18 surgeon or by a clinical laboratory bioanalyst in the proper
19 procedure to be employed when withdrawing blood in accordance
20 with training requirements established by the State Department of
21 Health Services and has a statement signed by the instructing
22 physician and surgeon or by the instructing clinical laboratory
23 bioanalyst that such training has been successfully completed.

24 (b) (1) On and after the effective date of the regulations
25 specified in paragraph (2), any unlicensed person employed by a
26 clinical laboratory performing the duties described in this section
27 shall possess a valid and current certification as a “certified
28 phlebotomy technician” issued by the department. However, an
29 unlicensed person employed by a clinical laboratory to perform
30 these duties pursuant to subdivision (a) on that date shall comply
31 with this requirement ~~within three years after~~ *by April 2006, which*
32 *is three years from* the effective date of those regulations.

(2) The department shall adopt regulations for certification by January 1, 2001, as a “certified phlebotomy technician” that shall include all of the following:

(A) The applicant shall hold a valid, current certification as a phlebotomist issued by a national accreditation agency approved by the department, and shall submit proof of that certification when applying for certification pursuant to this section.

(B) The applicant shall complete education, training, and experience requirements as specified by regulations that shall include, but not be limited to, the following:

(i) At least 40 hours of didactic instruction.

(ii) At least 40 hours of practical instruction.

(iii) At least 50 successful venipunctures.

However, an applicant who has been performing these duties pursuant to subdivision (a) may be exempted from the requirements specified in clauses (ii) and (iii), and from 20 hours of the 40 hours of didactic instruction as specified in clause (i), if he or she has at least 1,040 hours of work experience, as specified in regulations adopted by the department.

It is the intent of the Legislature to permit persons performing these duties pursuant to subdivision (a) to use educational leave provided by their employers for purposes of meeting the requirements of this section.

(3) Each “certified phlebotomy technician” shall complete at least three hours per year or six hours every two years of continuing education or training. The department shall consider a variety of programs in determining the programs that meet the continuing education or training requirement.

(4) He or she has been found to be competent in phlebotomy by a licensed physician and surgeon or person licensed pursuant to this chapter.

(5) He or she works under the supervision of a licensed physician and surgeon, licensed registered nurse, or person licensed under this chapter, or the designee of a licensed physician and surgeon or the designee of a person licensed under this chapter.

(6) The department shall adopt regulations establishing standards for approving training programs designed to prepare applicants for certification pursuant to this section. The standards shall ensure that these programs meet the state’s minimum education and training requirements for comparable programs.

(7) The department shall adopt regulations establishing standards for approving national accreditation agencies to administer certification examinations and tests pursuant to this section.

(8) The department shall charge fees for application for and renewal of the certificate authorized by this section of no more than twenty-five dollars (\$25).

(c) (1) A “certified phlebotomy technician” may perform venipuncture or skin puncture to obtain a specimen for nondiagnostic tests assessing the health of an individual, provided that the technician works under the general supervision of a ~~licensed physician and surgeon, a registered nurse, or a person licensed under this chapter. As used in this section, “general supervision” means that the supervisor of the technician reviews the competency of the technician to perform venipuncture or skin~~ *physician and surgeon licensed under Chapter 5 (commencing with Section 2000). The physician and surgeon may delegate the general supervision duties to a registered nurse or a person licensed under this chapter, but shall remain responsible for ensuring that all those duties and responsibilities are properly performed.*

(2) *As used in this subdivision, general supervision requires the supervisor of the technician to determine that the technician is competent to perform venipuncture or skin puncture prior to the technician’s first blood withdrawal, and on an annual basis thereafter. The supervisor is also required to determine, on a monthly basis, that the technician complies with appropriate venipuncture or skin puncture policies, ~~procedures, and~~ and procedures approved by the medical director and required by state regulations. The supervisor, or another designated licensed physician and surgeon, registered nurse, or person licensed under this chapter, shall be available for consultation with the technician, either in person or through telephonic or electronic means, at the time of blood withdrawal.*

(d) The department may adopt regulations providing for the issuance of a certificate to an unlicensed person employed by a clinical laboratory authorizing only the performance of skin punctures for test purposes.

SEC. 1.5. *Section 1246 of the Business and Professions Code is amended to read:*

1 1246. (a) Except as provided in ~~subdivision~~ *subdivisions* (b)
2 *and* (c), and in Section 23158 of the Vehicle Code, an unlicensed
3 person employed by a licensed clinical laboratory may perform
4 venipuncture or skin puncture for the purpose of withdrawing
5 blood or for clinical laboratory test purposes upon specific
6 authorization from a licensed physician and surgeon provided that
7 he or she meets both of the following requirements:

8 (1) He or she works under the supervision of a person licensed
9 under this chapter or of a licensed physician ~~or~~ *and* surgeon or of
10 a licensed registered nurse. A person licensed under this chapter,
11 a licensed physician or surgeon, or a registered nurse shall be
12 physically available to be summoned to the scene of the
13 venipuncture within five minutes during the performance of those
14 procedures.

15 (2) He or she has been trained by a licensed physician and
16 surgeon or by a clinical laboratory bioanalyst in the proper
17 procedure to be employed when withdrawing blood in accordance
18 with training requirements established by the State Department of
19 Health Services and has a statement signed by the instructing
20 physician and surgeon or by the instructing clinical laboratory
21 bioanalyst that such training has been successfully completed.

22 (b) (1) On and after the effective date of the regulations
23 specified in paragraph (2), any unlicensed person employed by a
24 clinical laboratory performing the duties described in this section
25 shall possess a valid and current certification as a “certified
26 phlebotomy technician” issued by the department. However, an
27 unlicensed person employed by a clinical laboratory to perform
28 these duties pursuant to subdivision (a) on that date shall comply
29 with this requirement ~~within~~ *by April 2006, which is* three years
30 ~~after~~ *from* the effective date of those regulations.

31 (2) The department shall adopt regulations for certification by
32 January 1, 2001, as a “certified phlebotomy technician” that shall
33 include all of the following:

34 (A) The applicant shall hold a valid, current certification as a
35 phlebotomist issued by a national accreditation agency approved
36 by the department, and shall submit proof of that certification
37 when applying for certification pursuant to this section.

38 (B) The applicant shall complete education, training, and
39 experience requirements as specified by regulations that shall
40 include, but not be limited to, the following:

1 (i) At least 40 hours of didactic instruction.

2 (ii) At least 40 hours of practical instruction.

3 (iii) At least 50 successful venipunctures.

4 However, an applicant who has been performing these duties
5 pursuant to subdivision (a) may be exempted from the
6 requirements specified in clauses (ii) and (iii), and from 20 hours
7 of the 40 hours of didactic instruction as specified in clause (i), if
8 he or she has at least 1,040 hours of work experience, as specified
9 in regulations adopted by the department.

10 It is the intent of the Legislature to permit persons performing
11 these duties pursuant to subdivision (a) to use educational leave
12 provided by their employers for purposes of meeting the
13 requirements of this section.

14 (3) Each “certified phlebotomy technician” shall complete at
15 least three hours per year or six hours every two years of
16 continuing education or training. The department shall consider a
17 variety of programs in determining the programs that meet the
18 continuing education or training requirement.

19 (4) He or she has been found to be competent in phlebotomy by
20 a licensed physician and surgeon or person licensed pursuant to
21 this chapter.

22 (5) He or she works under the supervision of a licensed
23 physician and surgeon, licensed registered nurse, or person
24 licensed under this chapter, or the designee of a licensed physician
25 and surgeon or the designee of a person licensed under this chapter.

26 (6) The department shall adopt regulations establishing
27 standards for approving training programs designed to prepare
28 applicants for certification pursuant to this section. The standards
29 shall ensure that these programs meet the state’s minimum
30 education and training requirements for comparable programs.

31 (7) The department shall adopt regulations establishing
32 standards for approving national accreditation agencies to
33 administer certification examinations and tests pursuant to this
34 section.

35 (8) The department shall charge fees for application for and
36 renewal of the certificate authorized by this section of no more
37 than twenty-five dollars (\$25).

38 (c) (1) (A) A “certified phlebotomy technician” may perform
39 venipuncture or skin puncture to obtain a specimen for
40 nondiagnostic tests assessing the health of an individual, provided

1 *that the technician works under the general supervision of a*
2 *physician and surgeon licensed under Chapter 5 (commencing*
3 *with Section 2000). The physician and surgeon may delegate the*
4 *general supervision duties to a registered nurse or a person*
5 *licensed under this chapter, but shall remain responsible for*
6 *ensuring that all those duties and responsibilities are properly*
7 *performed.*

8 *(B) As used in this paragraph, general supervision requires the*
9 *supervisor of the technician to determine that the technician is*
10 *competent to perform venipuncture or skin puncture prior to the*
11 *technician's first blood withdrawal, and on an annual basis*
12 *thereafter. The supervisor is also required to determine, on a*
13 *monthly basis, that the technician complies with appropriate*
14 *venipuncture or skin puncture policies and procedures approved*
15 *by the medical director and required by state regulations. The*
16 *supervisor, or another designated licensed physician and surgeon,*
17 *registered nurse, or person licensed under this chapter, shall be*
18 *available for consultation with the technician, either in person or*
19 *through telephonic or electronic means, at the time of blood*
20 *withdrawal.*

21 *(2) (A) Notwithstanding any other provision of law, a person*
22 *who has been issued a "certified phlebotomy technician"*
23 *certificate pursuant to this section may draw blood at the request*
24 *and in the presence of a peace officer for forensic purposes in a jail,*
25 *law enforcement facility, or medical facility, with general*
26 *supervision.*

27 *(B) As used in this paragraph, "general supervision" means*
28 *that the supervisor of the technician is licensed under this code as*
29 *a physician and surgeon, physician assistant, clinical laboratory*
30 *bioanalyst, registered nurse, or clinical laboratory scientist, and*
31 *reviews the competency of the technician before the technician*
32 *may perform blood withdrawals without direct supervision, and on*
33 *an annual basis thereafter. The supervisor is also required to*
34 *review the work of the technician at least once a month to ensure*
35 *compliance with venipuncture policies, procedures, and*
36 *regulations. The supervisor, or another person licensed under this*
37 *code as a physician and surgeon, physician assistant, clinical*
38 *laboratory bioanalyst, registered nurse, or clinical laboratory*
39 *scientist, shall be accessible to the location where the technician*

1 *is working to provide onsite, telephone, or electronic consultation,*
2 *within 30 minutes when needed.*

3 (d) The department may adopt regulations providing for the
4 issuance of a certificate to an unlicensed person employed by a
5 clinical laboratory authorizing only the performance of skin
6 punctures for test purposes.

7 SEC. 2. *Section 1.5 of this bill incorporates amendments to*
8 *Section 1246 of the Business and Professions Code proposed by*
9 *both this bill and AB 371. It shall only become operative if (1) both*
10 *bills are enacted and become effective on or before January 1,*
11 *2004, and this bill is enacted last.*

12 SEC. 3. *This act is an urgency statute necessary for the*
13 *immediate preservation of the public peace, health, or safety*
14 *within the meaning of Article IV of the Constitution and shall go*
15 *into immediate effect. The facts constituting the necessity are:*

16 *In order to promote public safety as soon as possible by revising*
17 *the provisions on unlicensed persons performing venipuncture, it*
18 *is necessary that this act take effect immediately.*

